

REMARKS

In the Office Action¹, the Examiner:

objected to the reply filed September 9, 2008 under 35 U.S.C. § 132(a);
and

rejected claims 1-4, 6, 7, 35-41, and 47 under 35 U.S.C. § 102(a) as
allegedly anticipated by U.S. Patent Publication No. 2002/0029161 to
Brodersen et al. ("Brodersen").

Applicant proposes to amend claim 6. Claims 1-4, 6-7, 35-41, and 47 remain
pending and under examination. Claims 8-34 and 42-46 have been withdrawn. No new
matter is added by this amendment.

With respect to the objection to the reply filed September 9, 2008, Applicant
asserts that the term "optimized allocation" is fully supported by the originally filed
disclosure. Notwithstanding, claim 6 is proposed to be amended in a manner to
overcome the objection. Accordingly, Applicant requests that the Examiner enter the
amendment and withdraw the objection.

The Office Action states that the new ground of rejection presented in the Office
Action is necessitated by the Amendment filed September 9, 2008. Office Action at
page 1. Notwithstanding, the Office Action maintained the Brodersen reference under
another 35 U.S.C. § 102 rejection for claims 35-41 and 47. *Id.*

The M.P.E.P. § 707(f) states "in order to provide a complete application file
history and to enhance the clarity of the prosecution history record, an examiner must

¹The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

provide clear explanations of all actions taken by the examiner during prosecution of an application. . .” Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it.”

Applicant asserts that the current Office Action does not substantively respond to any of Applicant's remarks presented in response to the rejection under 35 U.S.C. § 102(b) for the Brodersen reference. Applicant submits that failing to substantively respond to Applicant's remarks while maintaining the same reference in a rejection under 35 U.S.C. § 102 is improper. Accordingly, Applicant respectfully requests that the response to this reply, if not a Notice of Allowance, be a new non-final Office Action to afford Applicant a fair opportunity to reply to the rejection.

Applicant respectfully traverses the rejection of claims 1-4, 6, 7, 35-41, and 47 under 35 U.S.C. § 102(a) as anticipated by Brodersen.

In order to properly establish that Brodersen anticipates Applicant's claimed invention under 35 U.S.C. § 102, each and every element of each of the claims in issue must be found, either expressly described or under principles of inherency, in that single reference. Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” See M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Swart does not anticipate the claims at least because it fails to teach, or even suggest, each and every element of the claims.

Independent claim 1 recites “allocating resources to each project based on the identified resources necessary across all of the projects based on the available

resources and the priority value of the project.” Brodersen does not disclose, or even suggest, at least this feature of claim 1.

The Office Action alleges that Figures 1-6, and paragraphs [0042]-[0046], [0065], [0083], [0091], [0092], [0094], and [0100]-[0105] disclose “allocating resources. . . based on the available resources and the priority value of the project.” Office Action at pages 4-5. But, this allegation is not correct.

Brodersen discloses “[t]he assignment manager method and system of our invention matches resources, such as employees and employee skill sets, with needs. This is carried out in a “Rules Based” system within a resource constrained environment. Resources, such as employees, are matched with constraints, such as skill sets, employee product expertise, language skills, workload, and employee availability, among others” (emphasis added). Brodersen paragraph [0040].

Neither the above cited portion of Brodersen nor elsewhere in Brodersen expressly discloses, or even suggests, the claimed “allocation of human resources. . . based on the identified human resources and the priority value of the project.” Even if Brodersen could be said to disclose matching resources based on skill sets, which Applicant does not concede, Brodersen still does not disclose or suggest the claimed “allocation of human resources. . . based on the identified human resources and the priority value of the project.” This is because nothing in Brodersen discloses or suggests anything about the “priority value of the project.” Since Brodersen cannot reasonably be said to disclose each and every element of claim 1, Applicant respectfully requests the Examiner withdraw the rejection of claim 1 and allow the claim.

Since Brodersen does not disclose each and every element of claim 1, Applicant respectfully requests the Examiner withdraw the rejection of claim 1 and allow the claims. Claims 2-4, 6, and 7 are allowable at least due to their dependence on independent claim 1.

Independent claims 35, 41, and 47 although of different scope than claim 1, patentably distinguish the prior art for at least reasons similar to those discussed above with respect to claim 1 and are likewise allowable.

Applicant asserts dependent claims 36-41 are further allowable over the prior art at least due to their dependence from the independent claims discussed above. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection of these dependent claims.

CONCLUSION

In view of the foregoing, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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